



**GITY of GARDENA**

PAUL K. TANAKA, Mayor  
RONALD K. IKEJIRI, Mayor Pro Tem  
STEVEN C. BRADFORD, Councilmember  
RACHEL C. JOHNSON, Councilmember

1700 WEST 162nd STREET / GARDENA, CALIFORNIA 90247-3778 / (310) 217-9500

MARIA E. MARQUEZ, City Clerk  
J. INGRID TSUKIYAMA, City Treasurer  
MITCHELL G. LANSDELL, City Manager  
EDWARD W. LEE, City Attorney

November 26, 2008

VIA U.S. MAIL AND FAX

**MS. SACHI A. HAMAI, EXECUTIVE OFFICER  
BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES  
KENNETH HAHN HALL OF ADMINISTRATION, ROOM 383  
500 WEST TEMPLE STREET  
LOS ANGELES, CA 90012**

FILED  
2008 DEC -2 AM 9:38  
BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

**SUBJECT: CITY OF GARDENA RESOLUTIONS RELATED TO THE  
MUNICIPAL ELECTION OF MARCH 3, 2009**

Dear Ms. Hamai:

Enclosed are certified copies of City of Gardena Resolution No. 5056, calling for the placement of a General Tax Measure on the Ballot at the March 3, 2009 General Municipal Election for submission to the qualified voters of a proposed ordinance updating the terms of the City's Utility Users Tax; Resolution No. 5057, setting priorities for filing Written Arguments regarding a City Measure and directing the City Attorney to prepare an impartial analysis; and Resolution No. 5058, providing for the filing of Rebuttal Arguments for City Measures submitted at Municipal Elections, each of which were approved, passed and adopted by the City Council of the City of Gardena in regular session on November 25, 2008.

Said resolutions are in conjunction with those sent to you on October 16, 2008 (Resolution Nos. 5050, 5051, and 5052), related to the General Municipal Election on March 3, 2009.

Please email or telephone this office at (310) 217-9565 if you have any questions.

Sincerely,

*for* MARIA ELENA MARQUEZ  
City Clerk

cc: Chief Deputy City Clerk/Records Management Officer

Enclosures

12/06/2008 11:14 PAA 0047000

**RESOLUTION NO. 5052**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDENA,  
CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE  
COUNTY OF LOS ANGELES TO RENDER SPECIFIED SERVICES TO THE  
CITY RELATING TO THE CONDUCT OF A GENERAL MUNICIPAL  
ELECTION TO BE HELD ON TUESDAY, MARCH 3, 2009**

WHEREAS, a General Municipal Election is to be held in the City of Gardena, California, on March 3, 2009; and

WHEREAS, in the course of conduct of the election it is necessary for the City to request services of the County; and

WHEREAS, all necessary expenses in performing these services shall be paid by the City of Gardena;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to the provisions of § 10002 of the Elections Code of the State of California, this City Council requests the Board of Supervisors of the County to permit the County Election Department to prepare and furnish the following for use in conducting the election:

1. The computer record of the names and address of all eligible registered voters in the City in order that the City's consultant may:
  - a. Produce labels for vote-by-mail voters;
  - b. Produce labels for sample ballots; pamphlets;
  - c. Print Rosters of Voters and Street Indexes;
2. Voter signature verification services as needed;
3. Make available to the City election equipment and assistance as needed according to state law.

SECTION 2. That the City shall reimburse the County for services performed when the work is completed and upon presentation to the City of a properly approved bill.

SECTION 3. That the City Clerk is directed to forward without delay to the Board of Supervisors and to the County Election Department, each, a certified copy of this Resolution.

SECTION 4. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED ON this 14<sup>th</sup> day of October, 2008.




PAUL K. TANAKA, Mayor

ATTEST:

APPROVED AS TO FORM:



EDWARD W. LEE, City Attorney

  
MARIA ELENA MARQUEZ, City Clerk

(SEAL)


STATE OF CALIFORNIA           )  
COUNTY OF LOS ANGELES       ) SS:  
CITY OF GARDENA               ).

I, **PAMELA AMODEO-MORRIS**, Chief Deputy City Clerk/Records Management Officer of the City of Gardena, do hereby certify that the whole number of members of the City Council of said City is four; that the foregoing Resolution, being **Resolution No. 5052** duly passed and adopted by the City Council of said City of Gardena, approved and signed by the Mayor of said City, and attested by the City Clerk, all at a regular meeting of said City Council held on the 14<sup>th</sup> day of **October, 2008**, and that the same was so passed and adopted by the following roll call vote:

AYES:     MAYOR PRO TEM IKEJIRI, COUNCIL MEMBERS JOHNSON AND  
           BRADBORD, AND MAYOR TANAKA

NOES:     NONE

ABSENT:   NONE

  
for City Clerk of the City of Gardena, California

(SEAL)



**GITY of GARDENA**

1700 WEST 162nd STREET / GARDENA, CALIFORNIA 90247-3778 / (310) 217-9500

## **CERTIFICATION**

**STATE OF CALIFORNIA     )**  
**COUNTY OF LOS ANGELES) ss:**  
**CITY OF GARDENA         )**

**I, PAMELA AMODEO-MORRIS, CHIEF DEPUTY CITY CLERK, CITY OF GARDENA, CALIFORNIA, do hereby certify and attest, under penalty of perjury, that the foregoing is a full, true, and correct copy of Resolution No. 5057, Setting Priorities for Filing Written Arguments Regarding a City Measure and Directing the City Attorney to Prepare an Impartial Analysis, the original of which is on file in the Office of the City Clerk.**

**IN WITNESS WHEREOF, I have hereunto set my  
hand and affixed the Seal of the City of Gardena,  
this 26th day of November, 2008.**

**Chief Deputy City Clerk, City of Gardena, California**

**(SEAL)**



RESOLUTION NO. 5057

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING A CITY MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS.

WHEREAS, a General Municipal Election is to be held in the City of Gardena, California on March 3, 2009, at which there will be submitted to the voters the following measure:

“Without raising current tax rates and maintaining the exemptions for low income residents, shall an ordinance be adopted to help preserve funding for critical City services, including police and fire protection, 911 emergency response, senior support services and pothole repairs by updating the utility users tax to include new technologies; treating all taxpayers equally regardless of technology used and requiring public review of expenditures, annual independent audits and no tax increase without voter approval?”	Yes
	No

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the City Council authorizes (i) all members of the City Council, (ii) any individual voter eligible to vote on the above Measure, (iii) a bona fide association of such citizens or (iv) any combination thereof, to file a written argument in favor of or against the City Measure, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California and to change the argument until and including the date fixed below by the City Clerk after which no arguments for or against the City measure may be submitted to the City Clerk.

The deadline to submit arguments for or against the City Measure pursuant to this Resolution is declared by the City Clerk to be **December 9, 2008, 5:30 p.m.**

The arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument.

SECTION 2. That the City Council directs the City Clerk to transmit a copy of the Measure to the City Attorney, unless the organization or salaries of the office of the City Attorney are affected. The City Attorney shall prepare an impartial analysis of the Measure showing the effect of the Measure on the existing law and the operation of the Measure. If the Measure affects the organization or salaries of the office of the City Attorney, the City Clerk shall prepare the impartial analysis. The impartial analysis shall be filed with the City Clerk within ten (10) days following adoption of the Resolution calling the election.



**GITY of GARDENA**

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COUNTY OF LOS ANGELES) ss:  
CITY OF GARDENA         )

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IN WITNESS WHEREOF, I have hereunto set my  
hand and affixed the Seal of the City of Gardena,  
this 26th day of November, 2008.

Chief Deputy City Clerk, City of Gardena, California

(SEAL)





**CITY of GARDENA**

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Said resolutions are in conjunction with those sent to you on October 16, 2008 (Resolution Nos. 5050, 5051, and 5052), related to the General Municipal Election on March 3, 2009.

Please email or telephone this office at (310) 217-9565 if you have any questions.

Sincerely,

MARIA ELENA MARQUEZ  
City Clerk

cc: Chief Deputy City Clerk/Records Management Officer

Enclosures





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**STATE OF CALIFORNIA     )**  
**COUNTY OF LOS ANGELES) ss:**  
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**I, PAMELA AMODEO-MORRIS, CHIEF DEPUTY CITY CLERK, CITY OF GARDENA, CALIFORNIA, do hereby certify and attest, under penalty of perjury, that the foregoing is a full, true, and correct copy of Resolution No. 5057, Setting Priorities for Filing Written Arguments Regarding a City Measure and Directing the City Attorney to Prepare an Impartial Analysis, the original of which is on file in the Office of the City Clerk.**

**IN WITNESS WHEREOF, I have hereunto set my  
hand and affixed the Seal of the City of Gardena,  
this 26th day of November, 2008.**

  
**Chief Deputy City Clerk, City of Gardena, California**

**(SEAL)**

RESOLUTION NO. 5057

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING A CITY MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS.

WHEREAS, a General Municipal Election is to be held in the City of Gardena, California on March 3, 2009, at which there will be submitted to the voters the following measure:

"Without raising current tax rates and maintaining the exemptions for low income residents, shall an ordinance be adopted to help preserve funding for critical City services, including police and fire protection, 911 emergency response, senior support services and pothole repairs by updating the utility users tax to include new technologies; treating all taxpayers equally regardless of technology used and requiring public review of expenditures, annual independent audits and no tax increase without voter approval?"	Yes
	No

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the City Council authorizes (i) all members of the City Council, (ii) any individual voter eligible to vote on the above Measure, (iii) a bona fide association of such citizens or (iv) any combination thereof, to file a written argument in favor of or against the City Measure, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California and to change the argument until and including the date fixed below by the City Clerk after which no arguments for or against the City measure may be submitted to the City Clerk.

The deadline to submit arguments for or against the City Measure pursuant to this Resolution is declared by the City Clerk to be **December 9, 2008, 5:30 p.m.**

The arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument.

SECTION 2. That the City Council directs the City Clerk to transmit a copy of the Measure to the City Attorney, unless the organization or salaries of the office of the City Attorney are affected. The City Attorney shall prepare an impartial analysis of the Measure showing the effect of the Measure on the existing law and the operation of the Measure. If the Measure affects the organization or salaries of the office of the City Attorney, the City Clerk shall prepare the impartial analysis. The impartial analysis shall be filed with the City Clerk within ten (10) days following adoption of the Resolution calling the election.



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**STATE OF CALIFORNIA     )**  
**COUNTY OF LOS ANGELES) ss:**  
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**I, PAMELA AMODEO-MORRIS, CHIEF DEPUTY CITY CLERK, CITY OF GARDENA, CALIFORNIA, do hereby certify and attest, under penalty of perjury, that the foregoing is a full, true, and correct copy of Resolution No. 5056, Calling for the Placement of a General Tax Measure on the Ballot at the March 3, 2009 General Municipal Election for Submission to the Qualified Voters of a Proposed Ordinance Updating the Terms of the City's Utility Users Tax, the original of which is on file in the Office of the City Clerk.**

**IN WITNESS WHEREOF, I have hereunto set my  
hand and affixed the Seal of the City of Gardena,  
this 26th day of November, 2008.**

**Chief Deputy City Clerk, City of Gardena, California**

**(SEAL)**





**CITY of GARDENA**

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## **CERTIFICATION**

**STATE OF CALIFORNIA     )  
COUNTY OF LOS ANGELES) ss:  
CITY OF GARDENA         )**

**I, PAMELA AMODEO-MORRIS, CHIEF DEPUTY CITY CLERK, CITY OF GARDENA, CALIFORNIA, do hereby certify and attest, under penalty of perjury, that the foregoing is a full, true, and correct copy of Resolution No. 5058, Providing for the Filing of Rebuttal Arguments for City Measures Submitted at Municipal Elections, the original of which is on file in the Office of the City Clerk.**

**IN WITNESS WHEREOF, I have hereunto set my  
hand and affixed the Seal of the City of Gardena,  
this 26th day of November, 2008.**

**Chief Deputy City Clerk, City of Gardena, California**

**(SEAL)**



RESOLUTION NO. 5058

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDENA,  
CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS  
FOR CITY MEASURES SUBMITTED AT MUNICIPAL ELECTIONS.

WHEREAS, §§9220 and 9285 of the Elections Code of the State of California authorize the City Council, by majority vote, to adopt provisions to provide for the filing of rebuttal arguments for City measures submitted at municipal elections.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDENA,  
CALIFORNIA DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to Sections 9220 and 9285 of the Elections Code of the State of California, when the elections official has selected the arguments for and against the Measure which will be printed and distributed to the voters, the elections official shall send a copy of an argument in favor of the Measure to the authors of any argument against the Measure and a copy of an argument against the Measure to the authors of any argument in favor of the Measure immediately upon receiving the arguments.

The author or a majority of the authors of an argument relating to a city Measure may prepare and submit a rebuttal argument not exceeding 250 words or may authorize in writing any other person or persons to prepare, submit, or sign a rebuttal argument.

A rebuttal argument may not be signed by more than five individuals.

The rebuttal arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers.

The deadline for submitting rebuttal arguments is hereby declared by the City Clerk to be **December 19, 2008, 4:30 p.m.**, which is 10 days after the final date for filing primary arguments.

Rebuttal arguments shall be printed in the same manner as the primary arguments. Each rebuttal argument shall immediately follow the primary argument which it seeks to rebut.

SECTION 2. That all previous resolutions providing for the filing of rebuttal arguments for city measures are repealed.

SECTION 3. That the provisions of Section 1 shall apply only to the election to be held on March 3, 2009, and shall then be repealed.

SECTION 4. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

**RESOLUTION NO. 5056**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA CALLING FOR THE PLACEMENT OF A GENERAL TAX MEASURE ON THE BALLOT AT THE MARCH 3, 2009 GENERAL MUNICIPAL ELECTION FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF A PROPOSED ORDINANCE UPDATING THE TERMS OF THE CITY'S UTILITY USERS TAX.**

**WHEREAS**, pursuant to Title 3, Chapter 3.20 of the Gardena Municipal Code (G.M.C. §§ 3.20.010 – 3.20.260), the City currently levies a Utility Users' Tax ("UUT") at the rate of five percent (5%) on electricity, gas, water and telephone usage within the City; and

**WHEREAS**, pursuant to Gardena Municipal Code Section 3.20.260, the City has been temporarily collecting the UUT at the rate of four percent (4%); and

**WHEREAS**, the UUT is a general tax which funds the City general fund. The general fund pays for essential City services such as police protection, fire and paramedic services, street operations and maintenance, library services, parks and recreation services and general municipal services to the public; and

**WHEREAS**, on November 6, 1996, the voters of the State of California approved Proposition 218 (California Constitution, Article XIII C), an amendment to the State Constitution which requires that all general taxes which are imposed, extended or increased must be approved by a majority vote of the voters; and

**WHEREAS**, the amendments proposed in the attached ordinance may be characterized as an "increase" in the UUT under Proposition 218; and

**WHEREAS**, Proposition 218 permits the City Council to place the proposed measure on the ballot for the next general municipal election, which is scheduled for March 3, 2009.

**NOW, THEREFORE, BE IT RESOLVED**, determined, declared, found, and ordered by the City Council of the City of Gardena as follows:

**Section 1. Findings.** The City Council finds that all of the preceding recitals are true and correct.

**Section 2. Submission of Measure.** Pursuant to Government Code Section 53724 and any other applicable requirements of the laws of the State of California relating to general law cities, the City Council hereby orders the following proposed ordinance to be submitted to the voters of the City at the general municipal election to be held on Tuesday, March 3, 2009:



<p>“Without raising current tax rates and maintaining the exemptions for low income residents, shall an ordinance be adopted to help preserve funding for critical City services, including police and fire protection, 911 emergency response, senior support services and pothole repairs by updating the utility users tax to include new technologies; treating all taxpayers equally regardless of technology used and requiring public review of expenditures, annual independent audits and no tax increase without voter approval?”</p>	<p>YES</p> <p>NO</p>
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**Section 4. Text of Ordinance.** The text of the ordinance to be submitted to the voters is attached as Exhibit A.

**Section 5. Conduct of Election.** The City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

**Section 6. Notice of Election.** Notice of the time and place of holding the election is hereby given, and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.


**Section 7. Impartial Analysis.** Pursuant to California Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit such impartial analysis to the City Clerk within ten (10) days following the adoption of this Resolution.

**Section 8. Certification.** The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.


PASSED, APPROVED AND ADOPTED this 25<sup>th</sup> day of November, 2008.

  
Paul Tanaka, Mayor

ATTEST:

  
City Clerk

APPROVED AS TO FORM:

  
City Attorney



**ATTACHMENT "A"**

**Ordinance Regarding Utility Users Tax**

(attached)

MEASURE “\_\_\_\_”/ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF GARDENA UPDATING THE  
TELEPHONE/TELECOMMUNICATIONS PROVISIONS OF THE UTILITY USERS  
TAX.**

(NOTE: additions are highlighted in ***bold italics*** and deletions are highlighted in ~~strikeout~~)

THE PEOPLE OF THE CITY OF GARDENA, CALIFORNIA DO HEREBY ORDAIN  
AS FOLLOWS:

**Section 1.** Section 3.20.010 of Chapter 3.20 of the Gardena Municipal Code is hereby amended to read as follows:

**"3.20.010 Definitions.**

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

(a) ***“Ancillary Telecommunications Services” shall mean services that are associated with or incidental to the provision, use or enjoyment of telecommunications services, including but not limited to the following services:***

(1) ***“Conference bridging service” means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge.***

(2) ***“Detailed telecommunications billing service” means an ancillary service of separately stating information pertaining to individual calls on a customer’s billing statement.***

(3) ***“Directory assistance” means an ancillary service of providing telephone number information, and/or address information.***

(4) ***“Vertical service” means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services.***

(5) ***“Voice mail service” means an ancillary service that enables the customer to store, send or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.***

(ab) ***“Billing Address” shall mean the mailing address of the service user where the service supplier submits invoices or bills for payment by the service user.***

(b) —“Charges for Mobile Telecommunications Services” shall have the same meaning and usage as set forth in the Mobile Telecommunications Sourcing Act (4 U.S.C. Sections 116 and 124) and the regulations thereunder.

(c) “City” shall mean the City of Gardena, California.

(d) “City Manager” shall mean the City Manager of the City, or his or her authorized representative.

(e) ***“Communication Services” shall mean telecommunication services and ancillary telecommunication services.***

(ef) “Cogenerator” shall mean any corporation or person employing cogeneration (as defined in Section 218.5 of the California Public Utilities Code) for producing power for the generation of electricity for self use or sale to others from a qualified cogeneration facility (as defined in the federal Public Utility Regulatory Policies Act of 1978 and regulations thereunder).

(fg) “Exempt Wholesale Generator” shall have the same meaning as set forth in the Federal Power Act (15 U.S.C. Section 79z-5a) and the regulations thereunder.

(gh) “Gas” shall mean natural or manufactured gas or any alternate hydrocarbon fuel, which may be substituted therefor.

(hi) “Mobile Telecommunications Service” shall have the same meaning and usage as set forth in the Mobile Telecommunications Sourcing Act (4 U.S.C. Section 124) and the regulations thereunder.

(ij) “Month” shall mean a calendar month.

(k) ***“Municipal Organization” shall mean an organization or association created by statute or by voluntary action, whose purpose is to facilitate the development and dissemination of uniform rulings or interpretations regarding the application of utility users taxes to communications services in the State of California.***

(jl) “Non-Utility Service Supplier” shall mean:

(1) a service supplier, other than a supplier of electric distribution services to all or a significant portion of the City, which generates electricity for sale to others, and shall include but is not limited to any publicly-owned electric utility, investor-owned utility, cogenerator, distributed generation provider, exempt wholesale generator, municipal utility district, federal power marketing agency, electric rural cooperative, or other supplier or seller of electricity;

(2) an electric service provider (ESP), electricity broker, marketer, aggregator, pool operator, or other electricity supplier other than a supplier of electric distribution services to all or a significant portion of the City, which sells or supplies electricity or supplemental services to electricity users within the City;

(3) a gas service supplier, aggregator, marketer or broker, other than a supplier of gas distribution services to all or a significant portion of the City, which sells or supplies gas or supplemental services to gas users within the City; or,

(4) a water service supplier, distributor, wholesaler, marketer, or broker, which sells or supplies water to users within the City (other than a supplier of water distribution services to all or a significant portion of the City).

(km) “Person” shall mean, without limitation, any natural individual; firm; trust; common law trust; estate; partnership of every kind; association; syndicate; society; club; joint stock company; joint venture; limited liability company; corporation (including foreign,



domestic, and non-profit); municipal corporation (other than the City); municipal district; cooperative; or receiver, trustee, guardian or other representative appointed by order of any court.

(ln) *“Place of Primary Use” shall mean the street address representative of where the customer’s use of the communications service primarily occurs, which must be the residential street address or the primary business street address of the customer. have the same meaning and usage as set forth in the Mobile Telecommunications Sourcing Act (4 U.S.C. Section 116 et. seq.) and the regulations thereunder.*

(o) *“Post-Paid Telecommunication Service” shall mean the telecommunication service obtained by making a payment on a telecommunication-by-telecommunication basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a service number which is not associated with the origination or termination of the telecommunication service.*

(p) *“Prepaid Telecommunication Service” shall mean the right to access telecommunication services, which must be paid for in advance and which enables the origination of telecommunications using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.*

(q) *“Private Telecommunication Service” shall mean a telecommunication service that entitles the customer to exclusive or priority use of a telecommunications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels. A telecommunications channel is a physical or virtual path of telecommunications over which signals are transmitted between or among customer channel termination points (i.e., the location where the customer either inputs or receives the telecommunications).*

(mr) *“Service Address” means the residential street address or the business street address of the service user. For a telephone communication service user, “service address” means either any of the following:*

(1) *The location of the service user’s telecommunications equipment to which a service user’s call is charged and from which the call telecommunication originates or terminates, regardless of where the call telecommunication is billed or paid; or,*

(2) *If the location in subsection (1) of this definition is unknown (e.g., mobile telecommunications or VoIP service), the service address means the location of the service user’s place of primary use, or*

(3) *For prepaid telecommunication service, “service address” means the location associated with the service number.*

(ns) *“Service Supplier” shall mean any entity or person, including the City that provides telephone communication, electric, gas or water services to a user of such services within the City. The term shall include any entity or person required to collect, or self-collect under Section 3.20.060 of this chapter, and remit a tax as imposed by this chapter, including its billing agent in the case of telephone communication, electric, gas or water service suppliers.*

(of) *“Service User” shall mean a person required to pay a tax imposed by this chapter.*

(pu) *“State” shall mean the State of California.*



(v) *“Streamlined Sales and Use Tax Agreement” shall mean the multi-state agreement commonly known and referred to as the Streamlined Sales and Use Tax Agreement, and as it is amended from time to time.*

(qw) *“Tax Administrator” shall mean the Administrative Services Director of the City, or his or her authorized representative.*

(rx) *“Telephone Communications Services” includes any service that is capable of transmitting telephonic quality communications with the general telephone public [including the use of Internet Protocol (IP) or any other protocol], whether provided by analog, digital, electronic, radio or similar means through “interconnected service” with the “public switched network” [as these terms are commonly used in the Federal Communications Act and the regulations of the Federal Communications Commission see 47 U.S.C.A. Section 332(d)] or over digital networks by which communications with the general telephone public is available (e.g., voice using internet protocol or VoIP), and whether such transmission occurs by wire, teletypewriter, cable, cable modem or digital subscriber line (DSL), internet, fiber-optic, Wi-Fi, light wave, laser, microwave, switching facilities, satellite, radio wave [including, but not limited to, mobile telecommunications service, cellular service, commercial mobile service and commercial mobile radio service (see 47 U.S.C. Section 332(d)(1) and Part 20.3 of Title 47 of the Code of Federal Regulations), personal communications service (PCS), specialized mobile radio (SMR), and other similar services regardless of radio spectrum used], or any other similar facilities, and whether charges for such service are based on time, distance, or on any other basis. “Telephone Communication Services” shall also include, but is not limited to, “communications services” as defined in Sections 4251 and 4252 of the Internal Revenue Code, and the regulations thereunder. shall mean the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, whatever the technology used. The term “telecommunications services” includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether such services are referred to as voice over internet protocol (VoIP) services or are classified by the Federal Communications Commission as enhanced or value added, and includes video and/or data services that is functionally integrated with “telecommunication services”. “Telecommunications services” include, but are not limited to the following services, regardless of the manner or basis on which such services are calculated or billed: ancillary telecommunication services; mobile telecommunications service; prepaid telecommunication service; post-paid telecommunication service; private telecommunication service; paging service; 800 service (or any other toll-free numbers designated by the Federal Communications Commission); 900 service (or any other similar numbers designated by the Federal Communications Commission for services whereby subscribers who call in to pre-recorded or live service).*

(y) *“VoIP” (voice over internet protocol) shall mean the digital process of making and receiving real-time voice transmissions over any Internet Protocol network.*

(z) *“800 SERVICE” shall mean a “telecommunications service” that allows a caller to dial a toll-free number without incurring a charge for the call. The service is typically marketed under the name “800”, “855”, “866”, “877”, and “888” toll-free calling, and any subsequent numbers designated by the Federal Communications Commission.*



*(aa) "900 SERVICE" shall mean an inbound toll "telecommunications service" purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service. "900 service" does not include the charge for: collection services provided by the seller of the "telecommunications services" to the subscriber, or service or product sold by the subscriber to the subscriber's customer. The service is typically marketed under the name "900" service, and any subsequent numbers designated by the Federal Communications Commission."*

**Section 2.** Subsection (b) of Section 3.20.020 of Chapter 3.20 of the Gardena Municipal Code is hereby amended to read as follows:

**"3.20.020 Constitutional exemptions.**

....

(b) Any ~~person~~ *service user* that is exempt from the tax imposed by this subchapter pursuant to division (A) shall file an application with the Tax Administrator for an exemption; provided, however, this requirement shall not apply to a service user that is a state or federal agency or subdivision with a commonly recognized name, ~~or is a service user of telephone communication services that has received a federal excise tax exemption certificate for such service.~~ Said application shall be made upon a form approved by the Tax Administrator and shall state those facts, declared under penalty of perjury, which qualify the applicant for an exemption, and shall include the names of all utility service suppliers serving that service user. If deemed exempt by the Tax Administrator, such service user shall give the Tax Administrator timely written notice of any change in utility service suppliers so that the Tax Administrator can properly notify the new utility service supplier of the service user's tax exempt status. A service user that fails to comply with this section shall not be entitled to a refund of utility users taxes collected and remitted to the Tax Administrator from such service user as a result of such non-compliance. Upon request of the Tax Administrator, a service supplier or non-utility service supplier, or its billing agent, shall provide a list of the names and addresses of those customers which, according to its billing records, are deemed exempt from the utility users tax. ~~A telephone communication services supplier shall provide a copy of the federal exemption certificate for each exempt customer within the city that is served by such service supplier upon request of the Tax Administrator."~~

**Section 3.** Section 3.20.030 of Chapter 3.20 of the Gardena Municipal Code is hereby amended to read as follows:

**"3.20.030 Telephone Communication users' tax.**

(a) There is hereby imposed a tax upon every person in the City who uses intrastate ~~telephone communication services in the city.~~ The tax imposed by this section shall be at the rate of five percent (5%) of all charges made for such ~~telephone communication services~~ *and shall be collected from the service user by the service supplier or its billing agent.* There is a



rebuttable presumption that telephone communication services, *which services are capable of terminating a call to another person on the general telephone network, and* which are billed to a billing or service address in the City, are used, in whole or in part, within the City's boundaries, and such services are subject to taxation under this chapter. If the billing address of the service user is different from the service address, the service address of the service user shall be used for purposes of imposing the tax. ~~Charges for mobile telecommunications services are subject to taxation under this chapter if the customer's place of primary use is in the City, regardless of where the mobile telecommunications service may originate, terminate, or pass through.~~

(b) *"Mobile Telecommunications Service" shall be sourced in accordance with the sourcing rules set forth in the Mobile Telecommunications Sourcing Act (4 U.S.C. Section 124). The Tax Administrator may issue and disseminate to communication service suppliers, which are subject to the tax collection requirements of this chapter, sourcing rules for the taxation of other communication services, including but not limited to post-paid telecommunication services, prepaid telecommunication services, and private telecommunication services, provided that such rules are based upon custom and common practice that further administrative efficiency and minimize multi-jurisdictional taxation (e.g., Streamlined Sales and Use Tax Agreement).*

(bc) As used in this section, the term "charges" shall include the value of any other services, credits, property of every kind or nature, or other consideration provided by the service user in exchange for the telephone communication services. ~~The term "charges" shall not include charges for services paid for by inserting coins in coin-operated telephones except that where such coin-operated telephone service is furnished for a guaranteed amount, the amounts paid under such guarantee plus any fixed monthly or other periodic charge shall be included in the base for computing the amount of tax due.~~

(ed) The Tax Administrator, from time to time, may issue and disseminate to telecommunication service suppliers that are subject to the tax collection requirements of this chapter, an administrative ruling identifying those telecommunication services that are subject to the tax of subsection (a) above. This administrative ruling shall not impose a new tax, revise an existing tax methodology as stated in this chapter, or increase an existing tax *except as allowed by California Government Code Section 53750(h)(2), as it may be amended from time to time.* An administrative ruling shall not constitute a new tax or an increase in an existing tax if such administrative ruling is:

- (1) ~~consistent with the existing ordinance language; and,~~
- (2) ~~merely reflects a change in, clarification to, or new rendition of:~~
  - (a) ~~the definition, interpretation, or application of substantial nexus by a court of competent jurisdiction or by preemptive state or federal law, for purposes of taxation; or,~~
  - (b) ~~the definition, interpretation, or application of the federal excise tax rules, regulations, and laws pertaining to "communications services" (Sections 4251, 4252 and 4253 of the Internal Revenue Code) by the Internal Revenue Service, or by a state or local agency that assumes an interpretative role of those rules, regulations, and laws in the event that the federal excise tax on telecommunications is repealed.~~

(de) As used in this section, the term "telephone communication services" shall not include "private mobile radio service" [as defined in Part 20.3 of Title 47 of the Code of Federal Regulations] or "private mobile service" [as defined in 47 U.S.C.A. Section 332(d)(3)], which is



not interconnected with the public switched network, or which is not provided over digital networks by which communications with the general telephone public is available (e.g., voice using internet protocol or VoIP). The tax imposed under subsection (a), above, shall not be imposed upon any person for using telephone communication services to the extent that, pursuant to Sections 4252(d) and 4253 of the Internal Revenue Code, or Division Two, Part 20 of the California Revenue and Taxation Code, the amounts paid for such communication services are not subject to or are exempt from the tax imposed under Section 4251 of the Internal Revenue Code or under the California Revenue and Taxation Code. In the event that the federal excise tax on "communication services" as provided in Sections 4251, 4252 and 4253 of the Internal Revenue Code is subsequently repealed, any reference in this section and in Section 3.20.010(f) to this chapter, including any related federal regulations, private letter rulings, case law, and other opinions interpreting these sections, shall refer to that body of law that existed immediately prior to the date of repeal, as well as to any judicial or administrative decision interpreting such federal excise tax law which is published or rendered after the date of repeal. *As used in this section, the term "communications services" shall include, but shall not be limited to charges for: connection, reconnection, termination, movement, or change of communications services; late payment fees; detailed billing; central office and custom calling features (including but not limited to call waiting, call forwarding, caller identification and three-way calling); voice mail and other messaging services; directory assistance; access and line charges; universal service charges; regulatory, administrative and other cost recovery charges; local number portability charges; and text and instant messaging. "Communication services" shall not include digital downloads such as, music, ringtones, games, and similar digital products.*

*(f) To facilitate the uniform interpretation and application of similar ordinance provisions in other local jurisdictions in the state, the Tax Administrator may, prior to issuing and disseminating a sourcing rule or an administrative tax ruling, submit his or her proposed sourcing rule or administrative tax ruling to a Municipal Organization for review and comment, according to the rules and procedures of that Municipal Organization, or its successor organization.*

*(eg) To prevent actual multi-jurisdictional taxation of telephone communication services subject to tax under this section, any service user, upon proof to the Tax Administrator that the service user has previously paid the same tax in another state or city on such telephone communication services, shall be allowed a credit against the tax imposed to the extent of the amount of such tax legally imposed in such other state or city; provided, however, the amount of credit shall not exceed the tax owed to the City under this section.*

*(fh). The tax on telephone communication services imposed by this section shall be collected from the service user by the service supplier. The amount of tax collected in one (1) month shall be remitted to the Tax Administrator, and must be received by the Tax Administrator on or before the thirtieth (30th) day of the following month."*

**Section 4.** Section 3.20.080 of Chapter 3.20 of the Gardena Municipal Code is hereby amended to read as follows:



**"3.20.080 Effect of Bundling Non-Taxable with Taxable Items.**

Except as otherwise provided by federal or state law, if one or more non-taxable items are bundled or billed together with one or more taxable items (as provided for by this chapter) under a single charge on a customer's bill, the entire single charge shall be deemed taxable. Notwithstanding the foregoing, a telephone service provider of intrastate, interstate, and/or international services, may, with the prior written consent of the Tax Administrator, employ a reasonable method to estimate the intrastate portion of its collected revenues that are subject to the tax under Section 3.20.030. *If any nontaxable charges are bundled with and not separately stated from taxable service charges on the customer bill or invoice of a service supplier, the combined charge is subject to tax unless the service supplier identifies, by reasonable and verifiable standards, the portions of the combined charge that are nontaxable and taxable through the service supplier's books and records kept in the regular course of business, and in accordance with generally accepted accounting principles, and not created and maintained for tax purposes. The service supplier has the burden of proving the proper apportionment of taxable and non-taxable charges. If the service supplier offers a combination of taxable and non-taxable services, and the charges are separately stated, then for taxation purposes, the values assigned the taxable and non-taxable services shall be based on its books and records kept in the regular course of business and in accordance with generally accepted accounting principles, and not created and maintained for tax purposes. The service supplier has the burden of proving the proper valuation of the taxable and non-taxable services."*

**Section 5.** Section 3.20.090 of Chapter 3.20 of the Gardena Municipal Code is hereby amended to read as follows:

**"3.20.090 Substantial Nexus / Minimum Contacts**

For purposes of imposing a tax or establishing a duty to collect and remit a tax under this chapter, "substantial nexus" and "minimum contacts" shall be construed broadly in favor of the imposition, collection and/or remittance of the utility users tax to the fullest extent permitted by state and federal law, and as it may change from time to time by judicial interpretation or by statutory enactment. *A service supplier shall be deemed to have sufficient activity in the City for tax collection and remittance purposes if its activities include, but are not limited to, any of the following: maintains or has within the City, directly or through an agent or subsidiary, a place of business of any nature; solicits business in the City by employees, independent contractors, resellers, agents or other representatives; solicits business in the City on a continuous, regular, seasonal or systematic basis by means of advertising that is broadcast or relayed from a transmitter with the City or distributed from a location within the City; or advertises in newspapers or other periodicals printed and published within the City or through materials distributed in the City by means other than the United States mail; or if there are activities performed in the City on behalf of the service supplier that are significantly associated with the service supplier's ability to establish and maintain a market in the City for the provision of services that are subject to a tax under this Chapter."*



Section 6. Subsection (b) of Section 3.20.160 of Chapter 3.20 of the Gardena Municipal Code is hereby amended to read as follows:

**"3.20.160 Additional Powers and Duties of the Tax Administrator.**

....

(b) The Tax Administrator may adopt administrative rules and regulations not inconsistent with provisions of this chapter for the purpose of interpreting, clarifying, carrying out and enforcing the payment, collection and remittance of the taxes herein imposed. A copy of such administrative rules and regulations shall be on file in the Tax Administrator's office. *To the extent that the Tax Administrator determines that the tax imposed under this chapter shall not be collected in full for any period of time from any particular service supplier or service user, that determination shall be considered an exercise of the Tax Administrator's discretion to settle disputes and shall not constitute a change in taxing methodology for purposes of Government Code Section 53750 or otherwise. The Tax Administrator is not authorized to amend the City's methodology for purposes of Government Code Section 53750 and the City does not waive or abrogate its ability to impose the communication users' tax in full as a result of promulgating administrative rulings or entering into agreements."*

Section 7. Section 3.20.230 of Chapter 3.20 of the Gardena Municipal Code is hereby amended to read as follows:

**"3.20.230 Future Amendment to Cited Statute.**

Unless specifically provided otherwise, any reference to a state or federal statute in this chapter shall mean such statute as it may be amended from time to time, *provided that such reference to a statute herein shall not include any subsequent amendment thereto, or to any subsequent change of interpretation thereto by a state or federal agency or court of law with the duty to interpret such law, to the extent that such amendment or change of interpretation would require voter approval under California law, or to the extent that such change would result in a tax decrease (as a result of excluding all or a part of any utility service, or charge therefor, from taxation). Only to the extent voter approval would otherwise be required or a tax decrease would result, the prior version of the statute (or interpretation) shall remain applicable; for any application or situation that would not require voter approval or result in a decrease of a tax, provisions of the amended statute (or new interpretation) shall be applicable to the maximum possible extent.*

*To the extent that the City's authorization to collect or impose any tax imposed under this chapter is expanded or limited as a result of changes in state or federal law, no amendment or modification of this chapter shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the authorization up to the full amount of the tax imposed under this chapter."*



**Section 8.** Section 3.20.250 of Chapter 3.20 of the Gardena Municipal Code is hereby amended to read as follows:

**"3.20.250 Operative Date.**

*The amendments to this chapter shall become effective immediately upon the date that the 10th day of February 2005. It is noted that this Ordinance is confirmed and approved by the voters of Gardena at the Municipal General Election of March 3, 2009. only provides clarifying provisions with respect to the imposition and collection of the City's existing Utility Users Tax. This ordinance does not increase or extend the life of the City's current Utility Users Tax.*

**Section 9.** Section 3.20.260 of Chapter 3.20 of the Gardena Municipal Code is hereby amended to read as follows:

**"3.20.260 Temporary Adjustments to Amount to be Collected.**

The tax rate imposed upon every telephone user, electricity user, gas user, and water user shall be a maximum of five percent (5%), except where any service user or service supplier is made expressly exempt from the utility users' tax by this chapter. However, beginning on December 1, 1987, the amount to be collected from every telephone user, electricity user, gas user and water user in the city shall be calculated at the rate of four percent (4%) of the charges made for such service and shall be paid by the person paying for such service. ~~The amount to be collected shall remain at four percent (4%) until such time as the council, by ordinance, determines otherwise. Each fiscal year during their budget deliberations the finance committee and the council shall review the utility users' tax with the intent to adjust the amount to be collected depending upon the availability of revenue sources to the city.~~ *The utility users tax shall be reviewed annually by the City Council, in consultation with the Finance Committee, and the City Council may, by ordinance or resolution, adjust the rate or temporarily suspend all or a portion of the tax, as appropriate to the financial condition of the city. No adjustment to the rate or temporary suspension of the tax shall constitute a decrease in a tax, or an increase in a tax requiring voter approval under California Constitution Article XIII C (Proposition 218); provided the City Council's action does not increase the tax beyond the maximum rate or methodology set forth in this voter-approved ordinance. To the extent that any aspect of a rate adjustment or temporary tax suspension is found to invoke such a requirement under Proposition 218, the entire City Council action shall be deemed null and void ab initio, and there shall be no entitlement to adjustment or suspension for any service user."*

**Section 10. Effective Date.** This ordinance is subject to a vote of the citizens of Gardena and shall take effect, if approved by a majority of the voters voting at such election, immediately upon certification of the election by the City Clerk.

**Section 11. Severability.** If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this



ordinance. The People of the City of Gardena hereby declare that they would have adopted this ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**Section 12. Certification/Summary.** Following the City Clerk's certification that the citizens of Gardena have approved this Ordinance, the Mayor shall sign this Ordinance and the City Clerk shall cause the same to be entered in the book of original ordinances of said City; and shall cause the same, or a summary thereof, to be published as required by law.

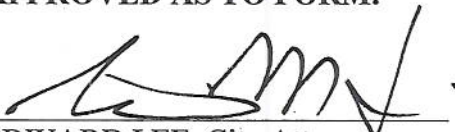
**PASSED, APPROVED AND ADOPTED, this \_\_\_\_\_ day of \_\_\_\_\_, 2009.**

\_\_\_\_\_  
PAUL K. TANAKA, Mayor

**ATTEST:**

\_\_\_\_\_  
MARIA ELENA MARQUEZ, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
EDWARD LEE, City Attorney

STATE OF CALIFORNIA           )  
COUNTY OF LOS ANGELES       ) SS:  
CITY OF GARDENA                )

I, **PAMELA AMODEO-MORRIS**, Chief Deputy City Clerk/Records Management Officer of the City of Gardena, do hereby certify that the whole number of members of the City Council of said City is four; that the foregoing Resolution, being **Resolution No. 5056** duly passed and adopted by the City Council of said City of Gardena, approved and signed by the Mayor of said City, and attested by the City Clerk, all at a regular meeting of said City Council held on the **25<sup>th</sup>** day of **November, 2008**, and that the same was so passed and adopted by the following


roll call vote:

AYES:     COUNCIL MEMBERS JOHNSON, IKEJIRI, AND BRADFORD, AND  
          MAYOR TANAKA

NOES:     NONE

ABSENT: NONE



 City Clerk of the City of Gardena, California

(SEAL)